

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA
REPEALING TITLE XI, CHAPTER 93, SECTION 93.02 CAMPING
PERMITTED ONLY IN DESIGNATED AREAS; REPEALING TITLE XIII,
CHAPTER 130, SECTION 130.12 SITTING OR LYING ON SIDEWALKS IN
COMMERCIAL DISTRICTS; AND ADDING CHAPTER 130, SECTION 130.15
UNLAWFUL CAMPING, SITTING, LYING
TO TITLE XIII GENERAL OFFENSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

UNCODIFIED FINDINGS AND DECLARATIONS.

WHEREAS, the City of Eureka is committed to supporting all community members, including those experiencing homelessness, by providing access to resources and services that promote stability, health, and well-being; and

WHEREAS, the City recognizes that addressing homelessness requires a multifaceted approach that includes not only enforcement of public space regulations but also the continued expansion of social service programs tailored to the needs of vulnerable individuals; and

WHEREAS, the City remains dedicated to offering and enhancing comprehensive support services, including shelter, housing assistance, mental health and substance use treatment, job training, and other essential programs aimed at improving the quality of life for those in need; and

WHEREAS, the City affirms its commitment to implementing and maintaining a Law Enforcement Assisted Diversion (LEAD) Program, which provides proactive, rehabilitative alternatives to criminal prosecution by connecting individuals with case management and supportive services that foster long-term personal growth and stability; and

WHEREAS, the purpose of this ordinance is to serve as an additional tool to encourage community members to engage with available services while maintaining the health, safety, and accessibility of public spaces for all residents; and

WHEREAS, the City of Eureka remains steadfast in its mission to balance compassionate outreach efforts with responsible public space management, ensuring a safe and inclusive community for all.

Title IX, Chapter 93, § 93.02 is hereby repealed in its entirety; Title XIII, Chapter 130, § 130.12 is hereby repealed in its entirety; and Title XIII, Chapter 130, § 130.15 is hereby added to read as follows:

§ 130.15 UNLAWFUL CAMPING, SITTING, LYING.

Section 1. Findings.

- (1) The City currently has two primary ordinances that regulate camping, sitting, and lying on public property: § 93.02 entitled Camping Permitted Only in Designated Areas and § 130.12 entitled Sitting or Lying on Sidewalks in Commercial Districts.
- (2) The City's camping regulations, contained in Section 93.02, were first adopted in 1963, and have been amended four times since then; the City's regulation of sitting or lying on sidewalks in commercial districts was adopted in 2012.
- (3) In 1994, the City's camping ordinance was amended to read, simply, "No person shall camp in any public space or public street, except in areas specifically designated for such use."
- (4) In 1995, the City's camping ordinance was expanded to read, "Except as provided herein, no person shall camp in any public or private space or public or private street, except in areas specifically designated for such use."
- (5) In 2012, the City adopted its first sitting and lying regulations. The City Council findings for its sitting and lying regulations noted that that City "has for years devoted significant resources to providing services to homeless, mentally ill, drug and alcohol dependent and other disadvantaged residents [...] nonetheless, public spaces in the City in commercial districts have become increasingly inhospitable to residents and visitors because individuals and groups have taken over sidewalk areas in those districts obstructing pedestrian access and potential patrons. These individuals and groups also leave behind litter, debris and waste in commercial districts."
- (6) In 2019, in *Martin v. Boise* (920 F. 3d 584), the Ninth Circuit Court of Appeals held that enforcing criminal restrictions on public camping was unconstitutional unless the person had "access to adequate temporary shelter."
- (7) In 2021, the City's camping regulations were comprehensively updated to adapt to the ruling in *Martin v. Boise*.
- (8) In 2023, in *Johnson v. Grants Pass* (72 F 4th 868), the Ninth Circuit expanded its ruling to prohibit cities from enforcing public camping restrictions through civil citations.
- (9) In January 2024, the Supreme Court of the United States granted certiorari on the question of whether civil or criminal enforcement of public camping restrictions was unconstitutional.
- (10) In June 2024, the Supreme Court, in a 6-3 decision, held: "The enforcement of generally applicable laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eight Amendment." (144 S. Ct. 2202).

- (11) In January 14, 2025, the City Council of the City of Eureka held special study session to discuss modifications to the City's ordinances in response to the recent Supreme Court ruling and the needs of the City.
- (12) The City is committed to and is currently addressing the need for adequate shelter for all individuals living in or wishing to live in the City.
- (13) The California Penal Code, Section 17.2 makes it the policy of the state to use justice court programs, diversion, restorative justice, and other alternatives to traditional criminal justice when possible.
- (14) The City currently has multiple programs to assist members of the community who are experiencing homelessness, including the CARE, CAPE, Uplift, and CSET programs. These and other resources are intended to be used in addition to any enforcement actions undertaken pursuant to this ordinance.

Section 2.

(A) PURPOSE.

- (1) The City does not have or maintain any areas designated for camping within the City limits. Given the appropriately-designated and maintained camping available in county, state, and federal parks in the surrounding region, the City does not intend to designate City parks for camping, as these parks were and are designed and designated for daytime recreation.
- (2) The City acknowledges that there are individuals experiencing homelessness who may use the streets, sidewalks, parks, and other public and private spaces as a place to recreate, and do not intend to limit that ability for equal access to public spaces for appropriate uses. However, the City does not believe that the public streets, sidewalks, and parks, or private property without the permission of the owner, are adequate or appropriate substitutes for indoor shelter and plumbing.
- (3) The streets and public areas within the City should be readily accessible and available to residents and the public at large. It is crucial that these areas are used for their intended purposes, as any use for camping, sleeping, or storage of personal property interferes with the rights of others and can constitute a public health and safety hazard that adversely impacts neighborhoods and commercial areas.
- (4) Camping on private property without the consent of the owner is trespassing, which impacts private property rights as well as public health, safety, and welfare of the City.
- (5) The primary purpose of this section is to maintain streets, parks, and other public and private areas within the City in a clean, sanitary, and accessible condition. It also aims to adequately protect the health, safety, and public welfare of the community while recognizing that, subject to reasonable

conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the City. Importantly, nothing in this section is intended to interfere with otherwise lawful and ordinary uses of public or private property.

(B) DEFINITIONS.

- (1) **CAMP or CAMPING.** To utilize camp facilities and/or paraphernalia, including but not limited to laying down bedding for the purpose of temporarily or permanently sleeping or living at that location. An activity shall constitute camping when it reasonably appears, in light of all the circumstances, that the participants in conducting these activities are, in fact, using the area as a sleeping or living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.
- (2) **CAMP FACILITIES.** Includes, but is not limited to, tents, huts, lean-tos, tarps, cardboard boxes or structures, vehicles, vehicle camping outfits or temporary shelters, cook stoves, or fire pits, however constructed.
- (3) **CAMP PARAPHERNALIA.** Includes, but is not limited to, materials intended to be used as beds or bedding, blankets, bedrolls, tarps, cots, mattresses, sleeping bags, hammocks or cooking facilities, and similar equipment.
- (4) **CITY MANAGER.** The City Manager or designee.
- (5) **ESTABLISH.** Setting up or moving equipment, supplies, or materials onto public or private property to camp or operate camp facilities.
- (6) **MAINTAIN.** Keeping or permitting equipment, supplies, or materials to remain on public or private property in order to camp or operate camp facilities.
- (7) **OPERATE.** Participating or assisting in establishing or maintaining a camp or camp facility.
- (8) **PRIVATE PROPERTY.** All private property includes but is not limited to, streets, sidewalks, alleys, and improved or unimproved land.
- (9) **PUBLIC PLACE and PUBLIC PROPERTY.** All public places and property including, but not limited to, streets, sidewalks, alleyways, improved or unimproved land and parks, and other public spaces.

(C) PROHIBITED ACTS.

- (1) It is unlawful and a public nuisance for any person to sit, lie, sleep, camp, occupy camp facilities, or use camp paraphernalia in the following areas:
 - (a) Any public place or property; or
 - (b) Any private property.

- (i) This section does not intend to prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents and the overnight camping is limited to not more than [##] consecutive nights.
 - (ii) Nothing in this section is intended to prohibit or make unlawful activities of an owner of private property or other lawful user of private property that are usually associated with and incidental to the lawful and authorized use of private property for residential or other purposes. Provided further, nothing is intended to prohibit or make unlawful activities of a property owner or other lawful user if this Code or other laws and regulations expressly authorize such activities.
 - (iii) Nothing in this section is intended to prohibit or make unlawful the mere possession of or transportation of camp facilities or camp paraphernalia on public or private property except as provided in this section.
 - (iv) The City Manager may, as provided in section 130.15 (E) of this Code, issue a temporary permit to allow camping on public or private property in connection with a special event.
- (2) It is unlawful and a public nuisance for any person to sit, lie, sleep or camp in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk.
 - (3) In addition to any other remedy provided by law, any person found in violation of this section may be immediately removed from the premises.
 - (4) It is unlawful and a public nuisance for any person to wash one's body or belongings in a fountain.
 - (5) It is unlawful and a public nuisance to urinate or defecate in public.
 - (6) It is unlawful, a public nuisance, and safety issue to have a warming fire on any public or private property. Fires on private property must be with the consent of the owner and in compliance with all other burn and safety regulations as set forth by the city and State of California.
 - (7) Exceptions. The prohibitions of Section (C) shall not apply to any person or persons:
 - (1) Who is sitting or lying down on a public sidewalk due to a medical emergency.

(2) Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.

(3) Who is standing or sitting on the curb or portion of any sidewalk or street while attending or viewing any parade, festival, performance, rally, demonstration, meeting or similar event conducted in accordance with this code or for which an appropriate permit has been duly issued by the City.

(4) Who is sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner pursuant to a permit.

(5) Who is sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

(D) VIOLATIONS.

(1) A violation of this section is a misdemeanor, and upon conviction, confinement of up to one year in jail and/or fines up to \$1,000 per violation, or as set forth in the Master Fee Schedule, plus payment for the actual costs of transporting and storing the property of the violator. In addition to the remedies set forth in Penal Code section 370, et seq., the City Attorney may institute civil actions to abate a public nuisance under this section.

(2) An individual charged with violation of this section, in lieu of being taken to jail, may, at the election of the citing police officer and with the consent of the individual, be taken to a facility providing social services related to mental health, housing, and/or substance abuse treatment.

(3) As an alternative to a fine or jail sentence the City would encourage the Court to grant diversion or probation with a condition that the offender complete a rehabilitation or other appropriate program.

(E) PERMIT FOR SPECIAL EVENTS REQUIRED.

(1) The City Manager may, in their discretion, issue a permit to establish, maintain, and operate a camp or a camp facility in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the City, youth or school events, marathons or other sporting events, and scouting activities.

(2) The City Manager may consult with various City departments, the health officer, and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety, or public welfare concerns and provide recommendations pertaining to the issuance, denial, or conditioning of the permit.

(3) The City may establish a reasonable fee to be paid in advance by the applicant. The fee shall be returned if the application is denied. In exercising

their discretion to issue a temporary permit, the City Manager may consider any facts or evidence bearing on the sanitary, health, safety, and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.

- (4) Any person who establishes, maintains, or operates a camp or camp facility without a permit is guilty of a misdemeanor and constitutes a public nuisance. In addition to remedies provided in Penal Code § 370 et seq., the City Attorney may institute civil actions to abate a public nuisance under this section.

(F) POSTING COPY OF PERMIT.

It is unlawful for any person to establish, maintain, conduct, or carry on any camp or camp facility unless there shall be at all times posted in a conspicuous place upon the area or tract of land upon which the camp or camp facility is located a permit obtained from the City Manager in accordance with the provision of section 130.15 (E) of this Code.

(G) SEVERABILITY

If any phrase, clause, sentence, section or provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other phrase, clause, sentence, section, provision or application of this chapter, which can be given effect without the invalid phrase, clause, sentence, section, provision or application and to this end the provisions of this chapter are declared to be severable.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the _____ day of ____, 2025 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR ON THE ____ DAY OF _____, 2025, AND HEREBY APPROVED.

Kim Bergel, Mayor

Approved as to Administration:

Approved as to Form:

Miles Slattery, City Manager

Autumn Luna, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA ON THE ____ DAY OF _____, 2025.

Pamela J. Powell, City Clerk